

EXHIBIT 42

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CHRISTOPHER CORCORAN, et al.

Plaintiff,

vs.

No. 15-CV-03504-YGR

CVS PHARMACY, INC.,

Defendant.

VIDEOTAPED DEPOSITION OF WILLIAM JOHN BARRE

Thursday, November 17, 2016

12:59 P.M.

12670 High Bluff Drive

San Diego, California

Reported by:

Harry Alan Palter

CSR No. 7708, Certified LiveNote Reporter

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7	MARKED	DESCRIPTION
8	Defense Exhibit 299	CVS Pharmacy, Inc.'s
9		Amended Notice of
10		Videotaped Deposition
11		of Bill Barre
12		
13	Defense Exhibit 300	MedImpact MedCare
14		Pharmacy Network
15		Agreement, CVSC-0333819
16		through CVSC-0333863
17		
18	Defense Exhibit 301	Salesforce document,
19		MEDIMPACT000001 through
20		MEDIMPACT000003
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22		
23		
24	Plaintiff Exhibit 606	TP Contracts Indexing
25		Form, CVSC-0006048
		through CVSC-0006081

<p style="text-align: right;">Page 66</p> <p>1 type of a card, program, enrollment, anything else</p> <p>2 of that nature, so simply walking in off the street,</p> <p>3 what would that person expect to pay at the</p> <p>4 point-of-sale at CVS. And that would be defined as</p> <p>5 the cash price, the usual and customary price or</p> <p>6 that lowest price.</p> <p>7 Q Let me focus on the lowest price.</p> <p>8 Why does MedImpact want to have a</p> <p>9 definition of "usual and customary price" that calls</p> <p>10 that price the lowest price that a pharmacy's</p> <p>11 offering?</p> <p>12 MS. McNAMARA: Objection. Foundation.</p> <p>13 THE WITNESS: We would want to ensure</p> <p>14 that a consumer coming in without taking any other</p> <p>15 activity -- this passive definition we referred to</p> <p>16 earlier, that the consumer end plan would benefit</p> <p>17 from whatever that price would be.</p> <p>18 It would be a challenge to go to either a</p> <p>19 consumer or to a plan and say, "Congratulations.</p> <p>20 You used the card, and it cost more than if you were</p> <p>21 to simply walk off the street and not use any type</p> <p>22 of a card, or program, or anything of that nature."</p> <p>23 Member disruption -- back to the plan --</p> <p>24 in most cases it really reflects to the individual.</p> <p>25 But even if it reflects back to the plan, ensuring</p>	<p style="text-align: right;">Page 68</p> <p>1 Q And nor does this definition of "usual</p> <p>2 and customary" have a expressed written exception</p> <p>3 that if you have to pay a fee for a discount that</p> <p>4 doesn't -- that's not included?</p> <p>5 MS. McNAMARA: Objection. The document</p> <p>6 speaks for itself.</p> <p>7 THE WITNESS: As I read this definition,</p> <p>8 I don't see that included.</p> <p>9 BY MR. GILMORE:</p> <p>10 Q You've referred several times today to a</p> <p>11 distinction between active and passive discount</p> <p>12 programs; right?</p> <p>13 A Active and passive pricing, yes.</p> <p>14 Q That distinction you're referring to,</p> <p>15 again, isn't written into this definition of "usual</p> <p>16 and customary price" that MedImpact and CVS agreed</p> <p>17 to?</p> <p>18 MS. McNAMARA: Objection. The document</p> <p>19 speaks for itself.</p> <p>20 THE WITNESS: As I read this, I don't see</p> <p>21 those words specified.</p> <p>22 BY MR. GILMORE:</p> <p>23 Q Can you point me to any written</p> <p>24 communication that you're aware of where MedImpact</p> <p>25 memorializes that active vs. passive discount</p>
<p style="text-align: right;">Page 67</p> <p>1 that that price would take place.</p> <p>2 We'd also look, when we would define</p> <p>3 "lowest price" in that meaning if there was</p> <p>4 something from a passive nature, that consumer would</p> <p>5 be eligible for. For example, they don't really</p> <p>6 exist anymore, but at the point in time, a senior</p> <p>7 citizen discount was a -- sometimes was offered by</p> <p>8 certain pharmacies that might offer a lower price</p> <p>9 than the typical -- the walk-in-off-the-street price</p> <p>10 would be that that consumer still didn't have to do</p> <p>11 anything by nature. It was simply the pharmacist</p> <p>12 entered in the birthdate information it would</p> <p>13 automatically calculate to some type of discount.</p> <p>14 BY MR. GILMORE:</p> <p>15 Q The definition of "usual and customary</p> <p>16 price" in this contract goes on to say, this price</p> <p>17 must include any applicable discounts promotions or</p> <p>18 other offers to attract customers; right?</p> <p>19 A Yes.</p> <p>20 Q As written, the definition of "usual and</p> <p>21 customary price" does not contain an exception for</p> <p>22 discounts, promotions, or offers that involve a</p> <p>23 membership program?</p> <p>24 A I was reading that here. I don't see</p> <p>25 membership listed in there, yes.</p>	<p style="text-align: right;">Page 69</p> <p>1 program -- that distinction that you're referring</p> <p>2 to -- aren't to be considered usual and customary</p> <p>3 pricing?</p> <p>4 MS. McNAMARA: Objection to form.</p> <p>5 THE WITNESS: I don't recall any specific</p> <p>6 documentation to that.</p> <p>7 BY MR. GILMORE:</p> <p>8 Q This Pharmacy Network Agreement, is this</p> <p>9 an agreement that ends up being shared with</p> <p>10 MedImpact's clients -- payors and PBM's -- I'm sorry</p> <p>11 -- MedImpact's payor and individual other plan</p> <p>12 clients?</p> <p>13 MS. McNAMARA: Objection to form. Calls</p> <p>14 for speculation.</p> <p>15 THE WITNESS: I'm not aware of any</p> <p>16 incidents that we would have shared a specific</p> <p>17 pharmacy agreement with any payor. If we did, I</p> <p>18 would have by nature taken that back to our legal</p> <p>19 channel and had it managed. But during my tenure, I</p> <p>20 cannot recall any incident where we would have</p> <p>21 shared that with anyone specifically.</p> <p>22 BY MR. GILMORE:</p> <p>23 Q Are you familiar with MedImpact's</p> <p>24 contracts that it has with payors of HMOs, employee</p> <p>25 plans -- any --</p>

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STATE OF CALIFORNIA

I, Harry A. Palter, a Certified Shorthand
Reporter of the State of California, do hereby certify:

That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken before me at the time and place therein set forth and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

I further certify that I am neither counsel for, nor related to, any party to said proceedings, nor in any way interested in the outcome thereof.

In witness whereof, I have hereunto
subscribed my name.

Dated: November 18, 2016

HARRY ALAN PALTER

CSR No. 7708

100000

Cherry Hill

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